

Serial No. : 09/756,508
Filed : 08 January 2001

REMARKS

In response to the first Office Action dated June 1, 2001 Applicant presents a Petition to Revive as well as this response. Re-examination and reconsideration of the application is respectfully requested.

Claims 1 - 29 remain in the application.

Claim 1 has been amended to more clearly set forth the feature that there are at least two game hands upon which the player wagers.

Claim 1 was originally rejected as being anticipated by Richardson '673. For anticipation, a single prior source or reference must contain all of the essential claimed elements. *Chisum*, *Chisum on Patents* § 3.02, *Gechter v. Davidson*, 116 F.3rd 1454; 43 USPQ2d 1030 (Fed. Cir. 1997). It is respectfully submitted that the cited reference does not disclose or suggest the features of claim 1 including the feature of the player playing "at least two hands" as well as the use of a common outcome indicia to determine whether the player wins their wager as to one, all or some of the game hands. Still further, the method of claim 1 recites pre-designation of the game as a high or low game whereas, in Richardson '673, the player has the option (by placing their wager) to play the game as a high or low game. Allowance of claim 1 is respectfully requested.

Claims 2 and 3 depend from claim 1. For the reasons advanced above, allowance of these claims is also solicited.

Claims 4 and 5 depend from claim 1 and claim 3, respectively, to recite the discarding of indicia and receiving replacements therefore. In regards to this claim,

Serial No. : 09/756,508
Filed : 08 January 2001

Applicant notes that this application claims priority to prior filed parent application Ser. No. 09/599,162 (now Patent 6,575,282) (hereinafter "Parent"). The Parent was subject to an appeal which resulted in a decision by the Board issued January 10, 2003 (copy attached). In that decision the Board held that:

"Neither Richardson or Weiss provides any suggestion to modify Richardson's game method by permitting a player to discard cards to improve his or her hand ..."
(Decision, page 7).

Accordingly, Applicant respectfully submits that claim 4 is in condition for allowance. Allowance of claim 4 is requested.

Claims 6 and 7 depend from claims 1 and 3 respectively. For the reasons advanced with respect to claim 1, allowance of claims 6 and 7 are respectfully requested.

Claim 8 depends from claim 7 to recite the player discarding and receiving a replacement card. For the reasons advanced with respect to claims 4 and 5, allowance of claim 8 is solicited.

Claim 9 recites a method along the lines of claim 1 where the game is designated as a "low" game and where the indicia are playing cards. For the reasons set forth with respect to claim 1, allowance of claim 9 is requested.

Claims 10 and 11 depend from claim 9 and recite the feature of the player discarding and receiving replacements. For the reasons set forth with respect to claims 4 and 5, allowance of these claims is requested.

Claim 12 depends from claim 9 and for the reasons advanced above with respect to claims 1 and 9, allowance of this claim is requested.

Serial No. : 09/756,508
Filed : 08 January 2001

Claim 13 is a method claim along the lines of claims 1 and 9 and has been amended to recite designation of the game as a "high" game. In view of the remarks above with respect to claims 1 and 9, allowance of claim 1 is requested.

Claims 14 and 15 depend from claim 13 to recite the feature of discarding and receiving replacements. In view of the remarks above with respect to claims 4 and 5, allowance of these claims is respectfully requested.

Claim 16 is an apparatus claim and has been amended to include the feature that the "high" or "low" nature of the game is preprogrammed. For the reasons set forth with respect to claim 1, allowance of claim 16 is requested.

Claims 17 and 18 depend from claim 16 to recite means for the player to select indicia for replacement. Claim 17 has been amended to overcome the Examiner's §112 objection. In view of the remarks with respect to claims 4 and 5 above, allowance of claims 17 and 18 is respectfully requested.

Claim 19 depends from claim 16. For the reasons set forth with respect to claim 16, allowance of this claim is also requested.

Claim 20 depends from claim 16 and recites that the data stored is playing card data where each card has a value and suit. For the reasons set forth with respect to claim 16, allowance of this claim is also requested.

Claim 21 has been amended to overcome the Examiner's §112 objection. This claim is drawn along the lines of claim 16 and recites that the data corresponds to a deck of playing cards and that the game is strictly a "high" game. In view of the remarks with

Serial No. : 09/756,508
Filed : 08 January 2001

respect to claim 1 and the failure of Richardson and/or Weiss to disclose or suggest the simultaneous play of multiple hands of the recited game, or to disclose that the player has no option and the game is played as a "high" game, allowance of claim 21 is requested.

Claims 22 and 23 depend from claim 21 to recite the discard/replacement feature discussed above with respect to claims 4 and 5. Allowance of these claims is requested.

Claims 24 and 25 depend from claim 21 and for the reasons advanced, allowance of these claims is also requested. Applicant further notes, with respect to claim 25, that Richardson and Weiss do not disclose the game where an outcome card would be selected for each hand,

Claims 26 and 27 recite methods where the player can replace a game card for a hand of play. In view of the Board decision and the remarks above with respect to claims 4 and 5, allowance of these claims is respectfully requested.

Claim 28 has been amended along the lines of claim 1. For the reasons advanced with respect to claim 1, allowance of this claim is solicited.

Finally, claim 29 recites the replacement feature. As discussed above with respect to claims 4 and 5, allowance of this claim is requested.

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Serial No. : 09/756,508
Filed : 08 January 2001

CONCLUSION

For the reasons advance above, it is submitted that all pending claims are in condition for allowance. Allowance of all pending claims is solicited.

Should the Examiner feel that a telephone interview would advance the case on the merits, the undersigned respectfully requests a telephone interview.

Respectfully submitted,

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Dated: Oct 17, 2003

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